

Murali Vs. State

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Court : Kerala

Decided On : Jul-09-2013

Judge : Honourable Mr.Justice V.K.Mohanan

Appellant : Murali

Respondent : State

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE V.K.MOHANAN TUESDAY,THE 9TH DAY OF JULY 2013 18TH ASHADHA, 1935 CrI.MC.No. 2812 of 2013 ----- [C.P.NO. 11/2013 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT, NORTH PARUR, CRIME NO. 1106/2011 OF NORTH PARUR POLICE STATION] PETITIONER/ACCUSED: ----- MURALI, AGED 3 YEARS, S/O.CHANDRASEKHARA MENON, VIPANCHIKA VEETIL, CHALIPPALAM BHAGAM, CHENDAMANGALAM VILLAGE, NORTH PARUR. BY ADV. SRI.DENIZEN KOMATH. RESPONDENTS/COMPLAINANT: -----

1. STATE OF KERALA, REPRESENTED BY THE DEPUTY SUPERINTENDENT OF POLICE, ALUVA THROUGH THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.
2. SUBRAMANIAN, S/O.ADIMA, AGED 6 YEARS, AANATHUPARAMBU VEETIL HOUSE VALIYAPALLMTHURUTH KARAYIL , NORTH PARUR

VILLAGE, ERNAKULAM

513. R1 BY PUBLIC PROSECUTOR SMT. S. HYMA. THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 09-07-2013, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: Prv. CRL.M.C. NO.2812/2013: APPENDIX PETITIONER'S ANNEXURES: ANNEXURE A1: TRUE CERTIFIED COPY OF THE F I R IN CRIME NUMBER 110 OF 201.OF NORTH PARU POLICE STATION. ANNEXURE A1(A) TRUE CERTIFIED COPY OF THE F I S IN CRIME NUMBER 110 OF 201.OF NORTH PARUR POLICE STATION. ANNEXURE A2: TRUE PHOTOCOPY OF THE INTIMATION ISSUED FROM THE OFFICE OF THE 1ST RESPONDENT VIDE INTIMATION BEARING REFERENCE NUMBER 4115 P3/SPA/2011. ANNEXURE A3: TRUE PHOTOCOPY OF THE SUMMONS RECEIVED FROM THE JUDICIAL FIRST CLASS MAGISTRATE COURT,NORTH PARUR IN C.P NO 1 OF 2013.ANNEXURE A4: TRUE CERTIFIED COPY OF THE CHARGE SHEET IN THE ABOVE CRIME NUMBER 110 OF 2011.ANNEXURE A5: TRUE ORIGINAL AFFIDAVIT AFFIRMED AND SIGNED BY THE 2ND RESPONDENT. RESPONDENTS' ANNEXURES: NIL. //TRUE COPY// P.A. TO JUDGE. Prv. V.K.MOHANAN, J.

----- Crl.M.C.No.2812 of 2013
----- Dated this the 09th day of July, 2013 ORDER
The above petition is filed under Section 482 of the Criminal Procedure Code (for short 'Cr.P.C.') at the instance of the petitioner, who is the accused in C.P.No.11 of 2013 on the file of the Judicial First Class Magistrate Court, North Parur which is a case instituted upon the police report in Crime No.1106 of 2011 of North Parur Police Station for the offences punishable under Sections 341, 323, 294(b) & 506(1) of I.P.C. and Section 3(1)(x) of Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989 with a prayer to quash all proceedings pending against the petitioner in C.P.No.11 of 2013 on the file of the Judicial First Class Magistrate Court, North Parur, as the matter is settled out of court.

2. The prosecution allegation is that on 11/07/2011 at about 5.30 p.m., the accused had caught hold of the second respondent by his shirt, who is the de

facto complainant, a member of categorized Scheduled Caste Community Crl.M.C.No.2812 of 2013 :-2-: wrongfully restraining him with the intention to harass by calling his caste name, uttering abusive words, slapped on the left cheek and thereby causing pain to the 2nd respondent and thus criminally intimidated him with serious consequences, defamed and thereby the petitioner/accused has committed the offences punishable under Sections 341, 323, 294(b), 506 (1) of IPC read with Section 3(1)(x) of the SC/ST Prevention of Atrocities Act, 1989. On the basis of the above allegation, Crime No.1106 of 2011 was registered in the North Parur Police Station and when the police completed the investigation, they filed a report based upon which C.P.No.11 of 2013 was instituted in the court of Judicial First Class Magistrate Court, North Parur. Now the case of the petitioner as well as the second respondent/de facto complainant is that, even during the stage of investigation itself the de facto complainant informed the police that he has no complaint against the petitioner as per Annexure-A2. According to the de facto complainant, he was informed by the Deputy Superintendent of Police, Aluva that his complaint was false. Crl.M.C.No.2812 of 2013 :-3-: Now the grievance of the petitioner is that, after the above development, the police now preferred a report against the petitioner. According to the petitioner as well as the second respondent/de facto complainant, the matter is settled out of court. Annexure-A5 is the affidavit of the second respondent/de facto complainant. Since the entire incident originated in connection with the labour dispute and the matter is settled, nobody is interested to proceed with the criminal case.

3. Heard the learned counsel for the petitioner as well as the 2nd respondent. I have also heard the learned Public Prosecutor.

4. The learned counsel for the petitioner submitted that, during the pendency of the above case, the dispute is settled amicably between the parties which is the subject matter of the above case. Therefore, the continuation of the proceedings in the above case is abuse of process of law and proceedings. Crl.M.C.No.2812 of 2013 :-4-:

5. The learned counsel for the 2nd respondent who on the basis of specific instruction received from the respondent submitted that the above respondent,

who is the de facto complainant does not intend to proceed any further against the petitioner and he has no grievance against him.

6. I have carefully considered the above submissions of the respective counsel. I have verified the documents and materials produced along with the above petition including Annexure-A5 affidavit. In the given facts and circumstances of the case and especially in the light of the settlement arrived between the parties to the dispute, the learned Public Prosecutor has also no objection in allowing the above petition.

7. Having regard to the facts and circumstances involved in the case, it can be seen that the offences involved in the above case are only under Sections 341, 323, 294(b) & 506(1) of I.P.C. and Section 3(1)(x) of Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989 which are more or less personal in nature and no public interest is involved. It is pertinent to note that though such offences are CrI.M.C.No.2812 of 2013 :-5-: involved, the real parties to the dispute approached this Court after having amicably settled the matter. From the submission made by the counsel for the 2nd respondent, it appears to me that the de facto complainant has no further grievance against the petitioner/accused in the light of the settlement arrived by them. In this juncture, it is relevant to note the decision of the Honourable Apex Court reported in *Gian Singh v. State of Punjab* [2012(4) KLT 108(SC)] in which the Supreme Court has held as follows:- "57. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under S.320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz;(i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R. may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed.. CrI.M.C.No.2812 of 2013 :-6-: It is further held as follows:- "..... But the criminal cases having overwhelmingly and pre-dominantly civil flavour stand on different

footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim....." According to me, in the light of the facts and circumstances involved in the present case and particularly in view of the settlement arrived in the present case, the dictum laid in the above decision is applicable in the present case. According to me, as the parties to the dispute settled the issues amicably, it is the duty of this Court to promote and encourage such settlement, instead of compelling the parties to go on with the dispute. It is pertinent to note that since the CrI.M.C.No.2812 of 2013 :-7-: matter is settled out of court, in the event of proceeding with the trial, there would not have any fruitful prosecution resulting the conviction of the accused, rather the net result would be sheer waste of judicial time and abuse of process of the court and proceedings. Thus, according to me, following the decisions cited supra, this Criminal M.C. can be allowed granting the relief as sought for. In the result, this CrI.M.C. is allowed, quashing Annexure-A1 FIR and all further proceedings pending against the petitioner in C.P.No.11 of 2013 on the file of the Judicial First Class Magistrate Court, North Parur. V.K.MOHANAN, JUDGE skj True copy P.A. to Judge

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